Ministry of Justice

Public Complaints Commission

Government of Saskatchewan

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This annual report is also available in electronic form from the Ministry's website at **www.justice.gov.sk.ca/annual-reports**.

Letters of Transmittal

Her Honour the Honourable Vaughn Solomon Schofield,
Lieutenant Governor of Saskatchewan

May it Please Your Honour:

The undersigned, pursuant to section 15 of *The Police Act, 1990*, is pleased to present the Saskatchewan Public Complaints Commission Annual Report for the period ending March 31, 2013.

Gordon S. Wyant, Q.C.
Minister of Justice and Attorney General

The Honourable Gordon S. Wyant, Q.C.
Minister of Justice and Attorney General

Dear Sir:

The undersigned, pursuant to section 15 of *The Police Act, 1990*, is pleased to present the Saskatchewan Public Complaints Commission Annual Report for the period ending March 31, 2013.

Robert W. Mitchell, Q.C.
Chair

Mission Statement

The Public Complaints Commission (PCC) is an independent panel of non-police persons appointed by the Saskatchewan Government to ensure that both the public and the police receive a fair and thorough investigation of a complaint against the municipal police in Saskatchewan.

One of the main functions of the police is the protection of the general public. Police services realize that their officers must maintain a high degree of public support to effectively carry out their duties. It is recognized that occasions arise when citizens feel they have not been treated fairly by a police officer. For that reason a citizen complaint procedure was set out in *The Police Act, 1990*. It is in the best interest of the public and the police to have citizens' complaints resolved in order to maintain the spirit of co-operation that now exists.

Governing Legislation

Role of the Public Complaints Commission

The PCC consists of five persons, including a chairperson and a vice-chairperson who are appointed by the Lieutenant Governor in Council. By legislation, at least one member must be a person of First Nations ancestry, at least one member must be a person of Métis ancestry, and at least one member must be a lawyer. The chairperson has the delegated authority to exercise the powers and to perform the duties imposed on the PCC.

Canada has long been recognized as a leader in the civilian oversight of the police. In 1992 Saskatchewan introduced legislation that identified a specific agency to address public complaints.

On April 1, 2006, following a consultation process with the Saskatchewan Association of Chiefs of Police, the Federation of Saskatchewan Indian Nations (FSIN), the Saskatchewan Federation of Police Officers, Métis Family and Community Justice Services, and local police boards, the PCC was created. The PCC replaced the office of the Saskatchewan Police Complaints Investigator.

Pursuant to subsection 39(1) and (2) of *The Police Act, 1990*, the duties of the PCC are as follows:

1. Where the PCC receives a public complaint pursuant to section 38, the PCC shall:
   a. record the complaint received;
   b. establish and maintain a record of all public complaints received by the police services and their dispositions;
   c. inform, advise and assist complainants;
   d. advise and assist the chiefs and boards, the hearing officer and the commission with respect to the handling of public complaints;
   e. monitor the handling of public complaints and ensure that public complaints are handled in a manner consistent with the public interest; and
   f. inspect annually, or at those times directed by the Minister, the records, operations and systems of administration for the handling of public complaints by police services.

2. In exercising the duties of the PCC pursuant to this section, the PCC:
   a. shall receive and obtain information respecting a public complaint from the complainant;
   b. may receive and obtain information respecting a public complaint from the member or chief who is the subject of the complaint, the chief or the board, in any manner that the investigator considers appropriate;
   c. may request access to any files or other material in the possession of the police service relevant to a public complaint; and
   d. may interview and take statements from the chief, board, complainant and the member or chief who is the subject of the public complaint.

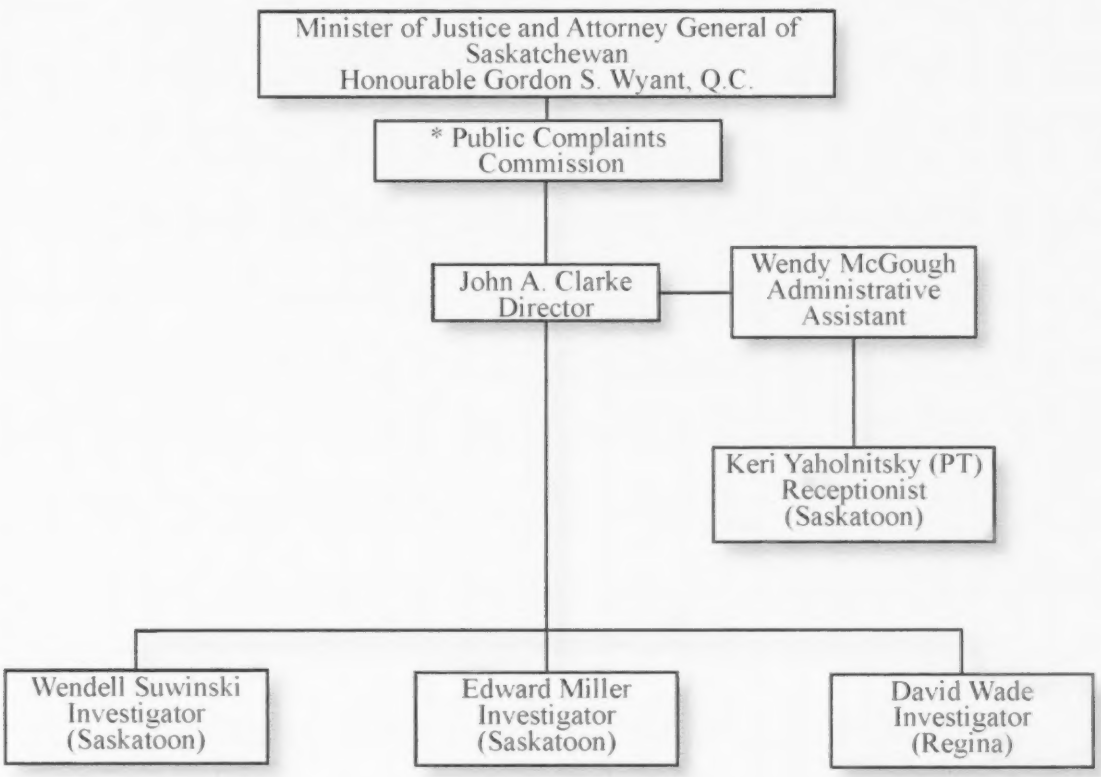
The PCC determines whether the investigation of a public complaint will be conducted by:

- the PCC investigative staff;
- the police service whose member is the subject of the complaint;
- the police service whose member is the subject of the complaint with the assistance of an observer appointed by the PCC to monitor the investigation and report to the PCC: or
- a police service other than the police service whose member is the subject of the complaint

The Police Act, 1990 states that the Chief of Police is responsible for the maintenance of discipline. Although the majority of the PCC's findings are accepted by police chiefs, the findings are not binding on the chiefs.

From time to time, differences of opinion with police chiefs have arisen and have resulted in healthy debate. While consensus is not always reached, the differences speak to the independence of the PCC.

Organizational Structure



* The PCC consists of five individuals including a chairperson and vice-chairperson. Members are appointed by the Lieutenant Governor in Council.

Public Complaints Commission

Members of the Public Complaints Commission

Members are appointed for a three-year term and may be reappointed for a second term of the same duration. However, no member may be appointed to more than two successive terms.

Members meet twice a month to review new complaints, receive briefings on current investigations, and reach consensus on final determinations of completed investigations that culminate in written decisions.

Chair:

Robert W. Mitchell, Q.C., Regina

Vice Chair:

Catherine M. Knox, Lawyer, Saskatoon

Members:

- Loretta Elford, Regina, a former Director of Education with the Regina Public School Board and active community member
- Raymond Fox, North Battleford, member of the Sweetgrass First Nation, Director of Justice, Battlefords Tribal Council, and a councillor for the City of North Battleford
- Michel Maurice, Saskatoon, Métis Elder

Director:

John Clarke, responsible for the administration and daily operation of the PCC.

Administrative Staff/Accommodation

Saskatchewan Public Complaints Commission (Regina)
Suite 300 – 1919 Saskatchewan Drive
REGINA SK S4P 4H2

Telephone: (306) 787-6519
Fax: (306) 787-6528
Toll Free: 1-866-256-6194

Saskatchewan Public Complaints Commission (Saskatoon)
916 – 122 3rd Avenue North
SASKATOON SK S7K 2H6

Telephone: (306) 964-1450
Fax: (306) 964-1454

Website: **www.publiccomplaintscommission.ca**

Message from the Chair

The PCC is mandated by *The Police Act, 1990* to provide civilian oversight of the conduct of municipal police officers in Saskatchewan.

The Commission has now completed seven years of operation, and continues to enjoy the strong support of the public and all parts of the policing community. This continuing level of support is a direct result of the remarkable process that led to the creation of the Commission. That process was led by the then Deputy Minister of Justice, Doug Moen, and included representatives of the Chiefs of Police, the police officer associations, the RCMP, the FSIN and the Métis Association. Over the course of nearly a year this group diligently worked out and agreed on the system of oversight that is now set out in *The Police Act, 1990*.

All complaints of police misconduct are referred to the Commission. Complaints that are sensitive or potentially controversial are assigned to one of the Commissions own investigators. We do this to try to avoid the perception of "police investigating police" which is an area of public concern. While our three investigators have police backgrounds, they have all been retired from policing for several years, and have satisfied the Commission that they are able to conduct these investigations with integrity and impartiality.

Other complaints that are less sensitive are referred back to the police service from which the complaint arose, which then conducts the investigation on behalf of the Commission. All investigations are carefully reviewed by the Commission and a decision is then made on the complaint.

The members of the Commission have been in place since their original appointments in 2006, and take pride in the important work they have done. Much has been accomplished as has been described in our annual reports.

We owe much of our success to the work of our Director, John Clarke, and our excellent support staff, and we thank them for the work they have done.

Robert W. Mitchell, Q.C.
Chair

Progress in 2012-13

2012-13 Key Commitments

- Ensure the mandate of the PCC to receive, review and investigate complaints against Saskatchewan municipal police is provided in a timely, concise manner.
- Continue the ongoing review of the public complaint process, maintaining and improving the consistent quality of investigations.
- Maintain an active role with the Canadian Association of Civilian Oversight for Law Enforcement (CACOLE) and maintain liaison with the PCC's provincial and federal counterparts.
- Participate in meaningful conferences which provide a forum for police officers, whose primary function is the investigation of public complaints on behalf of the PCC.
- Continue to engage with the Commission for Public Complaints Against the RCMP, as it is anticipated 2012-13 will see proposed amendments to the *Royal Canadian Mounted Police Act* permitting increased interaction with provincial oversight bodies come into effect.
- Continue to lecture at the Saskatchewan Police College to various courses on issues surrounding the public complaint process, particularly to police recruits, field training officers and front line supervisors.
- Review the current mediation process in an effort to streamline and decrease the amount of time required to bring the complainant and the subject officer together.
- Evaluate the need for a fall seminar to address specific areas of concern identified by the public complaint process.
- Maintain contact with all stakeholders.

2012-13 Results

- The number of files investigated by the PCC was down slightly from the previous reporting period. The general public is making greater use of the PCC's website to initiate complaints. Our toll-free line receives calls daily from individuals wanting to informally discuss their interaction with police officers and to become informed on the public complaint process before making a public complaint.
- Patrol car cameras and enhanced audio/visual recordings of police detention facilities have greatly improved the investigative process. The quality of the recordings, combined with multi-angle views, has added a new dimension to the PCC's ability to fully respond to public complaints.
- The PCC continues to be an active participant and strong supporter of CACOLE. The Chair and Director attended the annual conference in Toronto where the Director moderated a panel on the use of force. CACOLE continues to provide an essential forum for all Canadian and international civilian oversight agencies.
- The Director attended the First Nations Policing Practitioners and Managers Conference held in Montreal. This was an informative session addressing a wide range of policing topics from across Canada from a federal, provincial and local First Nations communities' perspective. A session on police professionalism hosted by the University of Saskatchewan, College of Law, in Saskatoon was attended by the PCC Commission Chair and Director, as well as PCC members and investigators. The session dealt with an overview of the historical concepts of policing and the rationale behind the public's demand for professionalism and continued accountability. The Director attended a session on the use of force hosted by the Regina Police Association with information and perspectives by the Force Sciences Group.
- The PCC continues to provide lectures to the recruit classes at the Saskatchewan Police College. The recruits learn the importance of the public complaint process and the importance placed on their conduct by police leadership and the general community. Lectures were provided to police supervisors stressing the vital importance of their roles as supervisors. Ensuring proper articulation and the thoroughness of police reports is essential to public confidence.
- Daily contact was maintained with individual Chiefs of Police and police officers assigned to professional standards sections.
- Evaluation of an effective mediation process is ongoing and changes will be forthcoming in 2013-14.

- Saskatchewan has an extensive history with the RCMP, who continue to act as a provincial police service and provide municipal policing for the majority of Saskatchewan communities. The RCMP actively participates in several joint forces operations with municipal police officers whose conduct falls under the mandate of the PCC. It is essential that public complaints against such units are effectively investigated without time being wasted on duplication of effort. The PCC continues to engage with the Commission for Public Complaints Against the RCMP. The Chair and Director attended the annual conference hosted by the Commission for Public Complaints Against the RCMP. This conference continues to promote improved relationships between the federal and various provincial agencies responsible for independent civilian oversight of police conduct.
- Contact was maintained with all stakeholders: Saskatchewan Ombudsman; Saskatchewan Human Rights Commission; Public Prosecution Division of the Ministry of Justice; Coroner's Office; Saskatchewan Police Commission; Information and Privacy Commissioner; and local boards of police commissioners.
- The PCC attended annual meetings of the Saskatchewan Federation of Police Officers and the Saskatchewan Association of Chiefs of Police. These meetings promote essential dialogue between the associations and the PCC.
- The PCC reviewed the previous seminars and determined that, with the support of the police community, greater value would accrue when training sessions are held every second year. Planning is already in place for our 2013-14 session.

2012-13 Matters of Concern

The PCC's 2011-12 annual report identified concerns with the quality of police officers' notebooks, insufficient articulation in police reports, lack of conciliatory verbal skills, and issues surrounding supervision of junior police officers. While the PCC has observed an overall improvement, more is required. The most significant of these concerns is the lack of supervision of police officers.

The attitude of some police supervisors was exemplified during the course of an investigation when a supervisor stated his signature as the declaring or reviewing officer only meant he had received the actual report and not that he had reviewed the contents. A supervisor speaking in confidence advised that efforts to provide guidance to junior officers were met with resistance. Further efforts to hold those officers accountable met with a lack of support from police management.

The PCC's previous annual report commented on the relationship between the PCC and the Special Investigations Unit of the FSIN. There continues to be a difference of opinion in how public complaint information is forwarded to the PCC as required by the public complaint provisions of *The Police Act, 1990*. It is the responsibility of the PCC to determine when a matter should be considered a public complaint. The PCC has the authority to deem circumstances to be a public complaint and direct an investigation without an individual complainant coming forward if it is in the public interest to do so.

2013-14 Plans

- Continue to ensure the mandate of the PCC to receive, review and investigate complaints against Saskatchewan municipal police is provided in a timely manner.
- Maintain an active role with CACOLE and continue to liaise with our federal and provincial counterparts.
- Engage with the Commission for Public Complaints Against the RCMP to further relationships and work to establish local protocol to address complaints against Joint Forces Units involving RCMP and municipal police officers.
- Continue to lecture at the Saskatchewan Police College on issues surrounding the public complaint process to recruits, field trainers and police supervisors.
- Complete evaluation of the informal resolution process to make it less cumbersome and time sensitive.
- Host a training seminar with the focus on the public complaint process from intake to completed investigation and final reports. Seminar to also include other provincial enforcement agencies whose employees are subject to public complaints.

2012-13 Performance Measures

The statistics set out in the tables on this page are for the period April 1 to March 31, for the fiscal years 2009-10, 2010-11, 2011-12 and 2012-13. The following pages show the breakdown of complaints for each of the ten municipal police services and four rural municipality police services in the province during the 2012-13 fiscal year.

Number of Complaint Files Opened

Police Service	2009-10	2010-11	2011-12	2012-13
Regina	51	44	45	57
Saskatoon	79	82	75	54
Moose Jaw	2	3	4	4
Prince Albert	10	19	5	7
Estevan	10	1	3	4
Weyburn	1	3	1	1
Caronport	0	0	0	0
Dalmeny	0	0	0	0
File Hills	0	0	4	2
Luseland	0	0	0	0
R.M. of Corman Park	1	0	2	0
R.M. of Lakeland	0	0	2	0
R.M. of Vanscoy	0	0	0	0
R.M. of Wilton	0	0	0	0
Total Number of Files	154	152	141	129

The table below shows the percentage of complaint files that fall within certain time-frames, during which the complaint is received, investigated, reviewed and the complainants are advised of the action taken with respect to their concerns.

Percentage of Complaint Files Completed Within Given Time-frames

Days	2009-10	2010-11	2011-12	2012-13
0 – 30	18	20	28	27
31 – 60	16	12	6	5
61 – 90	4	5	3	6
91 – 120	4	1	6	2
121 – 150	3	3	3	3
151 – 180	1	1	1	2
Over 181	19	9	6	9
Pending	35	49	47	46

Statistical Data

Findings of Complaints Received

April 1, 2012 to March 31, 2013

Police Service	Substantiated	Unsubstantiated	Unfounded	Withdrawn/Other	S.45(5)*	Informal Resolution	Service	Not Yet Completed	Total
Regina	12	2	10	5	15	1	2	20	69
Saskatoon	1	2	6	2	8	1	1	35	56
Moose Jaw			1		1	2		1	5
Prince Albert			1	2	1	1		2	7
Estevan	1		1			1		1	4
Weyburn					1			0	1
Carrot River								0	0
Dalmeny								0	0
File Hills				1	1			0	2
Luseland								0	0
R.M. Corman Park								0	0
R.M. Lakeland								0	0
R.M. Wawota					1			0	1
R.M. Wilton								0	0
Total	14	4	19	8	27	6	3	59	140**

*Under section 45(5) of *The Police Act, 1990* circumstances did not require investigation or, during the course of the investigation, it was determined that circumstances no longer supported the continuation of the investigation.

**While only 129 complaints were filed, some had multiple complaints and findings.

Definition of Complaint Findings

- Substantiated – supported by evidence
- Unsubstantiated – allegation cannot be proved or disproved
- Unfounded – unsupported by evidence

Definition of Descriptions

- 36Aiv - Discreditable Conduct
- 36Av - Discreditable Conduct
- 36 C - Neglect of Duty
- 36D - Improper Disclosure of Information
- 36Fi - Abuse of Authority
- 36Fii - Abuse of Authority
- 37Ei - Abuse of Authority

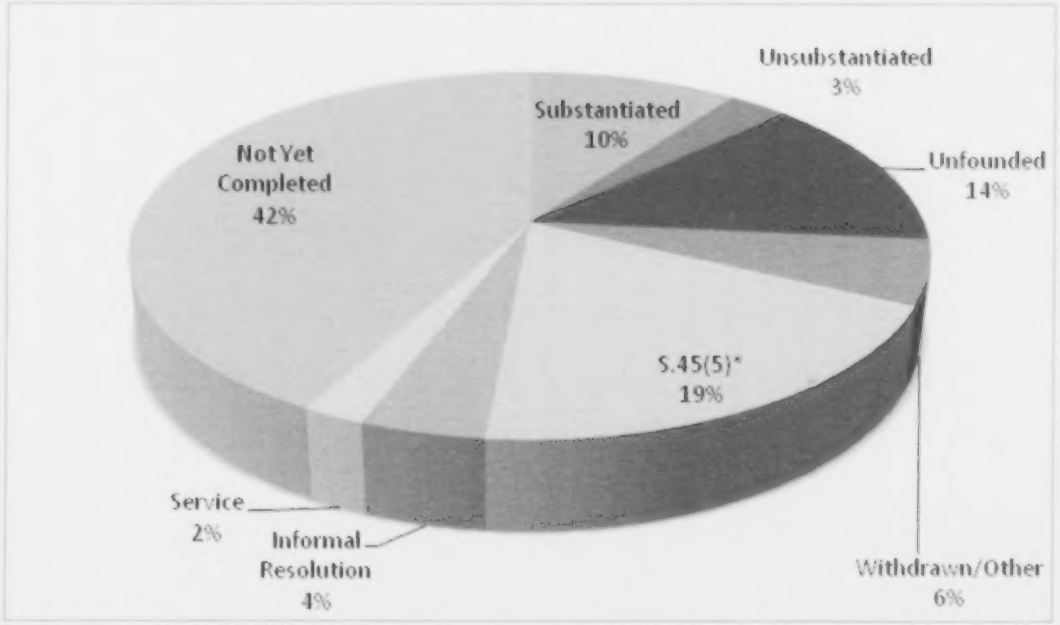
Classification of Substantiated and Unsubstantiated Complaints

April 1, 2012 to March 31, 2013

Police Service	Substantiated	Description
Saskatoon	1	36Av
Estevan	1	37Ei
Regina	3	36Av
	1	36Aiv
	5	36C
	1	36D
	1	36Fi
	1	37Ei
Police Service	**Unsubstantiated**	**Description**
Saskatoon	1	37Ei
	1	36Av
Regina	1	36Av
	1	36Fii

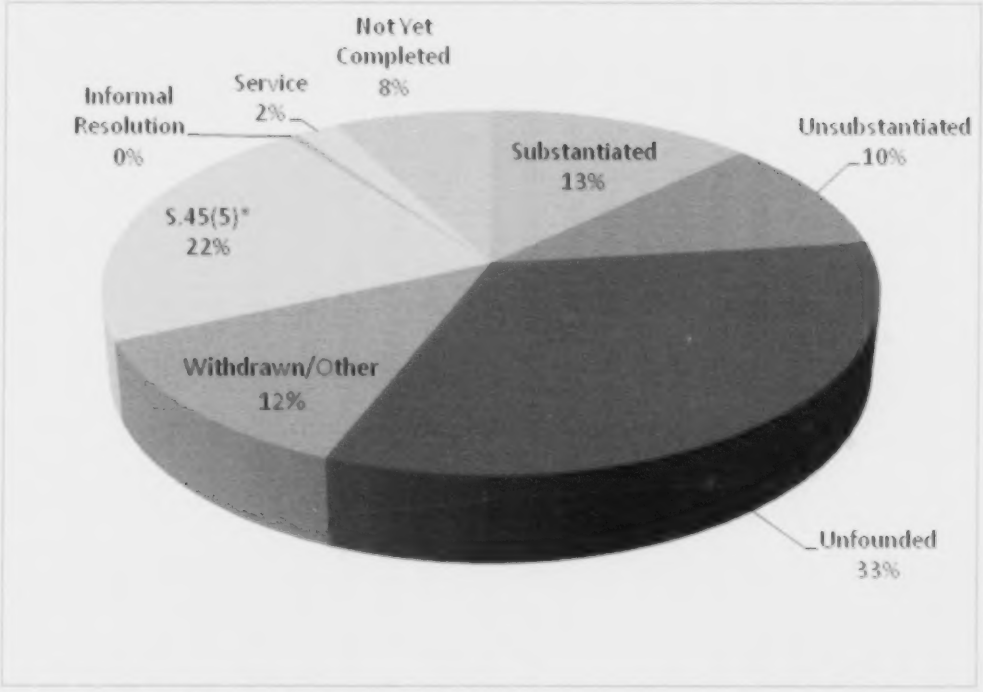
Complaint Findings

April 1, 2012 to March 31, 2013



Revised Complaint Findings

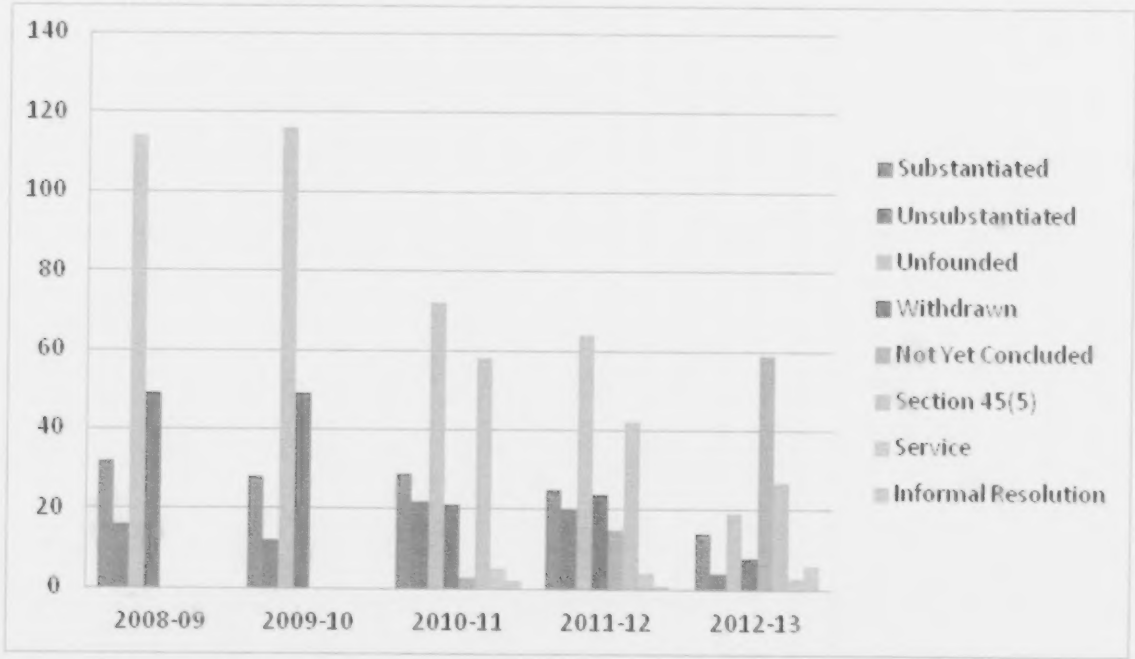
April 1, 2011 to March 31, 2012



*Under section 45(5) of *The Police Act, 1990* circumstances did not require investigation or, during the course of the investigation, it was determined that circumstances no longer supported the continuation of the investigation.

Five-year Comparative Statistics

2008-09 to 2012-13



This table shows the status of complaints filed in each fiscal year as of March 31, 2013.

Type of Complaints Received

April 1, 2012 to March 31, 2013

Type of Complaint	Regina	Saskatoon	Moose Jaw	Prince Albert	Estevan	Weyburn	Caronport	Dalmeny	Luseland	File Hills	Corman Park	Lakeland	Vanscoy	Wilton	Total
Discreditable Conduct	17	13	0	4	0	0	0	0	0	2	0	0	0	0	36
Neglect of Duty	10	2	3	0	1	1	0	0	0	0	0	0	0	0	17
Insubordination	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Improper Disclosure of Information	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Corrupt Practice	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Abuse of Authority	14	4	1	1	2	0	0	0	0	0	0	0	0	0	22*
Improper Use of Firearms	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Damage to Police Property	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Improper Wearing of Uniform	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Misuse of Liquor / Drugs	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Criminal Conduct	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Others	3	2	0	0	0	0	0	0	0	0	0	0	0	0	5
Not Yet Completed	20	35	1	2	1	0	0	0	0	0	0	0	0	0	59

* Of the 22 Abuse of Authority allegations, nine were for Unnecessary Use of Violence.

Case Summaries

The case summaries provided are a cross-section of the types of complaints received.

Mr. C

The PCC was first advised of the circumstances of this case by the administration of a municipal police service. An internal review of the use of force by an officer to restrain Mr. C while in custody brought into question the justification for the officer's actions. The PCC determined it was in the public interest to initiate a public complaint. The subsequent investigation was conducted by a PCC investigator.

The investigation established that Mr. C had been detained by officers during the course of an investigation into a report of shoplifting. Mr. C appeared to be under the influence of an intoxicating substance and in possession of food items that were believed to be stolen. Officers stated that Mr. C was argumentative and made threatening remarks. In the secure vehicle bay at the police station there came a point where one officer struck Mr. C twice with a closed fist.

After the incident, the officers documented the use of physical force in notes, reports related to the alleged theft, detention reports, and by way of an internal report specifically related to use of force. Mr. C was charged with uttering threats as a result of the incident. These reports and records were reviewed during the course of the investigation and further statements taken from the officers involved. Video surveillance recordings that captured the incident were reviewed.

Three officers were present in the security bay at the time of the incident because of concern about Mr. C's behaviour. Two officers stated that their attention was drawn when another officer approached Mr. C and delivered two blows. The officers stated that their view was obstructed or their attention was elsewhere immediately before the strikes were administered and neither saw Mr. C's threatening action or behaviour, although he had made verbal threats to the officers and/or their families. The officer who struck Mr. C stated he had behaved in a physically threatening manner. The officer described Mr. C taking an aggressive stance and raising balled fists prior to his approaching and striking Mr. C. The officer's recollection was not supported by the video surveillance of the incident.

As Mr. C alleged excessive use of force, section 47 of *The Police Act, 1990*, requires the circumstances be reviewed by the Ministry of Justice, Public Prosecutions Division, to determine if the conduct of the police officer(s) constitutes a criminal offence. Following their review, Public Prosecutions recommended charges against one officer for assault. It was reported that the officer subsequently appeared in court, entered a guilty plea and was sentenced to a period of probation.

Under the provisions of section 35(2)(c) of *The Police Act, 1990*, the Chief of Police is responsible for discipline within the police service. The Act requires that the Chief of Police review the actions of the police officer(s) to determine if their conduct constitutes a violation of *The Municipal Police Discipline Regulations, 1991*. The Chief reviewed these circumstances. The Chief reported that the officer who struck Mr. C resigned from the police service. This ended the authority of the Chief of Police to pursue other disciplinary action against the officer under *The Police Act, 1990*. The Chief recommended that the conduct of the other officers involved did not warrant disciplinary action.

Following the review, the PCC advised Mr. C that while the incident was regrettable; the fact the police service accountability mechanisms first identified the possibility of misconduct by an officer and immediate appropriate steps were taken in response was noteworthy. Mr. C had concerns with the criminal charges in relation to uttering threats and he was advised the courts were the appropriate authority to determine if his actions constituted an offence, having regard to all of the circumstances. Mr. C made enquiries about financial compensation and was advised that such claims were not within the purview of the PCC and he should contact legal counsel to pursue such a claim.

The PCC was satisfied that this incident was taken very seriously by the police service. The matter was thoroughly and impartially investigated, reviewed and dealt with in a manner consistent with the public interest.

Ms. P

The PCC received Ms. P's faxed complaint, made on behalf of a young offender, about the actions of police officers involved in his arrest and subsequent incarceration in police cells. The youth alleged officers used excessive force against him in cells, denied a mattress and blanket, and treated him disrespectfully by laughing at him.

The police service provided the PCC with a copy of the relevant police reports and cell video for review. The cell video showed that within a short period of time of being placed in the cell, the youth began yelling and banging on the glass. He continued the behavior to the point of removing his shirt, tearing it up and stuffing it in the toilet. The youth flushed the toilet, flooding the cell floor. The youth also broke off the head of the overhead fire sprinkler in the cell.

Three police officers attended the youth's cell as the youth stood on the bunk in the corner of the cell and refused to come down. The officers pulled him from the bunk and attempted to move him to the floor. He resisted their

efforts and they forced him to the floor, where his clothing was removed. The officers removed the broken pieces of the sprinkler and left the cell. The youth was not kicked or punched by any of the officers.

The youth's behavior as soon as he was placed in the cell was such that consideration was not given to provide him with mattress or blanket. The youth stated in his complaint that the person in the cell next to him was provided with a mattress and blanket. The youth's recollection was not accurate and not supported by the cell video.

The PCC reviewed all relevant information and determined the police officers acted reasonably to ensure the youth did not harm himself or cause any further damage to police property. The officers used reasonable force to restrain him and remove his clothing. There was no information to suggest the police officers intentionally withheld a mattress and blanket, nor was there information to support the youth's contention the police officers laughed at him.

The PCC directed an investigation not be authorized and the youth's complaint was terminated as unfounded.

Mr. M

Mr. M informed the supervising officer in a police service detention unit that an officer had jumped him from behind for no reason and that he wanted to complain about the officer's behaviour. Mr. M was released from custody prior to a statement of complaint being obtained.

Nevertheless, the supervisor sent a message to the Shift Commander(s) on duty advising of Mr. M's complaint. As a result of the message, the following day the Shift Commander had the detention unit surveillance recordings reviewed to evaluate the circumstances. This review revealed that while Mr. M was being escorted from one area to another in the detention unit, an officer had used force to subdue him on the floor and the cause or justification for this action was not apparent in the recordings. As a result, the police service initiated the collection of all related records and an officer made numerous attempts to contact Mr. M to obtain detailed information about his recollection of the incident.

The PCC was informed of the allegation and the difficulty police investigators were experiencing in contacting Mr. M to obtain a formal statement. Although a formal complaint had not yet been received from Mr. M, the PCC determined it was in the public interest to deem the matter to be a public complaint and the investigation was assigned to a PCC investigator. Despite the fact the PCC investigator was unable to make contact with Mr. M or arrange an interview, the investigation progressed.

Detention unit personnel stated that Mr. M's behaviour was belligerent and less than co-operative during the time they were on shift. Two officers escorted him from his cell to appear before a Justice of the Peace (JP). One of the officers stated that she was aware the other officer had a verbal confrontation with Mr. M earlier. The officer stated that Mr. M appeared displeased with the results of his appearance before the JP when returned to his cell. This officer stated that en route, Mr. M was left in the custody of the other officer as she attended to another prisoner. This officer described hearing a scuffle between Mr. M and the officer; however, she did not see the occurrence and was not advised what occurred.

The escorting officer acknowledged using a control technique, taught in police training, to control Mr. M physically, hold him against the wall and subdue him on the floor after Mr. M made threats to strike the officer. The officer believed he was justified based on Mr. M's actions.

The supervisor confirmed that Mr. M reported the use of force by another officer to her. Based on his disruptive behaviour she did not believe Mr. M's report was credible. She believed she met her responsibilities by advising her superiors of Mr. M's complaint and that they would take appropriate action as necessary.

The audio and video recordings from the detention unit revealed Mr. M had made remarks that would generally be considered disrespectful and antagonistic towards custodial staff related to his treatment, the supply of a blanket, and meal service during the period he was in custody. Mr. M threatened to punch an officer while speaking (shouting) at him through the door. When Mr. M was being moved from one area to another in the detention unit there was a discussion between him and the officer about the previous threat. Although parts of the audio recording are indistinct because of other noise and the fact they were moving through fringes of audio reception, at a point the officer is heard to say "*Hey, I thought you were going to punch me in the face?*" Thereafter, the officer is seen to force Mr. M against the wall and then to the floor. There was no visible threatening or resistant behaviour from Mr. M beyond his comments.

The alleged excessive use of force, section 47 of *The Police Act, 1990*, required the circumstances be reviewed by the Ministry of Justice, Public Prosecutions Division, to determine if the conduct of the police officer(s) constitutes a criminal offence. Following their review, Public Prosecutions recommended a charge of assault proceed against the officer who subdued Mr. M. Subsequently, a charge under the *Criminal Code* was sworn. The PCC has been advised that, as is the usual practice for first offenders who accept responsibility for less serious offences, the matter was referred to an alternative measures program for disposition.

The officer took responsibility for his actions and the charge was withdrawn at the successful conclusion of these proceedings.

Under the provisions of section 35(2)(c) of *The Police Act, 1990*, the Chief of Police is responsible for discipline within the police service. The Act requires that the Chief of Police review the actions of the police officer(s) to determine if their conduct constitutes a violation of *The Municipal Police Discipline Regulations, 1991*. The Chief of the Police reviewed these circumstances and recommended that the conduct of the officers warranted disciplinary or other action. The detention unit supervisor failed to diligently investigate and record Mr. M's complaint at the time of receipt. The officer who restrained Mr. M abused his authority by using unnecessary violence and demonstrated discreditable conduct in his remarks towards Mr. M during the incident. In this regard, with the concurrence of the PCC, action pursuant to *The Municipal Police Discipline Regulations, 1991* was administered that included a reprimand, period of suspension without pay, a probationary period of two years and the requirement to attend relevant counselling.

The internal accountability mechanisms of the police service functioned properly in these circumstances, despite the finding that the immediate supervisor might have taken additional immediate action upon becoming aware of the allegation. The officers were honest and forthright in their account of their actions and there was no evidence of any attempt to conceal or subvert the incident. The PCC was satisfied that Mr. M's concerns were thoroughly investigated and reviewed and action appropriate to the circumstances followed.

Mr. T

Mr. T's complaint related to the actions of several police officers who stopped the vehicle he was operating during the early morning hours. He alleged the officers were unprofessional and acted without lawful authority when they improperly searched the vehicle he was operating, seized a small amount of marijuana and liquor, and administered sobriety tests.

Mr. T stated that when he was stopped the officer informed him the window tinting on the vehicle was illegal. The officer questioned him about the smell of marijuana present in the vehicle. Mr. T indicated the officer expressed disbelief when he told the officer he had not smoked in the vehicle for about a week. The officer requested Mr. T's consent to search the vehicle, which he declined. He was informed he was to be charged for the window tinting. A few minutes later another officer spoke to Mr. T. This officer accused him of lying about marijuana use and Mr. T admitted to the officer he had smoked marijuana several hours earlier. Mr. T stated the officer requested he participate in sobriety tests. Mr. T believed he was sober and agreed. While he was participating in the sobriety testing, another officer who arrived on the scene searched the vehicle and called out to Mr. T, waving a small baggie. There was an exchange of rude remarks and Mr. T was directed to continue with the sobriety tests. At the conclusion of tests and after another verbal exchange with the officer, he was handcuffed and placed in the back of the police car. Mr. T stated he was not advised how he had failed the sobriety tests. He stated officers searched the trunk of the vehicle and removed a sealed bottle of liquor which was subsequently disposed of by one of the officers.

The police service reports and records were reviewed and statements were taken from the officers involved. Mr. T was stopped as an officer observed improper window tinting on the vehicle. When the officer approached the vehicle, a strong odour of marijuana was detected. The officer acknowledged questioning him about marijuana consumption. The officer did not believe his reply that consumption was a week previous. Mr. T declined to consent to a search of the vehicle. This officer denied use of profanity or derogatory comments. This officer did not observe symptoms of impairment; however, he requested that another officer with more experience assess Mr. T.

Another officer spoke to Mr. T and demanded he complete certain physical tests. Based on these tests the officer concluded there were sufficient indicators Mr. T was impaired and his operator's licence was suspended for 24 hours as provided by *The Traffic Safety Act*. This officer stated that after the physical testing was completed, one of the officers informed him material suspected to be illegal drugs was found in the vehicle. As a result, the officer arrested Mr. T. The officer stated Mr. T resisted to a minor degree by pulling or attempting to walk away from the officer who held him over the hood of the police car and placed him in handcuffs. Mr. T was served a notice related to the suspension of his driver's licence. This officer acknowledged using profane language while speaking to Mr. T, believing it was appropriate to reflect the manner of Mr. T's communication.

Another officer who arrived after the vehicle was stopped undertook further investigation of the odour of marijuana emanating from the vehicle based on the information received from the initial officer on the scene. Upon approaching the passenger-side door, this officer also smelled marijuana. This officer stated the passenger door was opened, although he did not recall who opened the door. After it was opened he observed suspected drugs in a compartment on the door. Based on this, the officer searched the vehicle and located more small quantities of suspect material and paraphernalia in the glove box and console compartment. A bottle of liquor was found

in the trunk and was seized as it was believed to be a contravention of *The Alcohol and Gaming Regulation Act*.

Mr. T was charged related to the tinted windows, his driving privileges were suspended for 24 hours and the vehicle he was driving was seized. The suspected drugs and liquor were disposed of, although he was not charged in respect to these matters.

Mr. T was advised of the PCC's legislated mandate as it relates to the actions of police officers, not the policies and practices of a police service or administrative processes related to suspension of driver's licences that are provided by legislation. Regarding the 24-hour suspension, there is no protocol or requirement that an officer disclose details of the sobriety testing. Therefore, this does not represent misconduct.

The courts are the appropriate authority to consider the admissibility and weight of evidence, constitutionality of search and seizure, and ultimately whether an offence was committed. Generally the PCC defers legal issues or arguments related to detention, arrest, search and seizure to the courts, as long as officers acted in good faith, within bounds of reasonable interpretations of the law and precedent setting cases, and there is no blatant misconduct in their actions. In these circumstances, the various authorities exercised by the officers were not subject to review by the courts and warranted consideration by an independent review.

There are legal precedents guiding searches of persons and places related to arrest, incidental to the arrest, and related to principles of plain view, exigency and other possible circumstances. Officers need to clearly articulate which avenue they are pursuing as the boundaries may be different. Various legal authorities cannot be conjoined in the flurry of actions or because the officers believed the driver displayed "attitude." Discovery of contraband does not establish or enhance the authority to search or reasonable grounds to have initiated the search in the first place. Convenience or expediency does not constitute exigent circumstances.

The officers acted properly to stop a vehicle suspected to be equipped with illegally tinted windows. The officers had cause to further investigate based on the odour of marijuana and possibility the driver could be impaired. The officers' attention was drawn to the strong odour they recognized as marijuana emanating from the vehicle.

There was no assessment of the degree of odour from Mr. T's clothing, hair or breath by any officer. The officers disbelieved the driver's denial he had recently consumed marijuana in the vehicle and suspected the possibility he was impaired, although there was no report of defect in the driving pattern and the officer was not able to note any symptoms of impairment when the vehicle was initially approached. In any event, Mr. T was not obliged to admit to marijuana use or be truthful about when he might have used it, whether or not the officers chose to believe him.

By this time several things became known and needed be considered. First, the driver was not the registered owner of the vehicle. Although Mr. T was clearly in charge of the vehicle at that moment, there was another occupant. Mr. T declined voluntary consent to a search of the vehicle, as was his right. Although this may have furthered officers' suspicions, this is not a ground to search. The officers had some information as to Mr. T's origin and destination consistent with moving from point A to point B. Although it was possible Mr. T had recently consumed marijuana in the vehicle, it was equally possible someone else, including the passenger, had done so, or it was not as recent as officers believed.

What followed was three officers acting separately, employing various authorities under the *Criminal Code, Controlled Drugs and Substances Act, Motor Vehicles Act* and *Alcohol and Gaming Regulation Act* to detain, suspend, test, charge, search and seize. There was limited communication between the officers and no one apparently in charge of or co-ordinating the efforts, but each depended to some degree on grounds that another had developed. One officer took charge of the tinted window infraction. The second officer took charge of establishing Mr. T's level of impairment, albeit at the first officer's request. The third officer took charge of a search of the vehicle on his own initiative, and although this officer independently confirmed the odour of marijuana in the vehicle, he had no direct contact with Mr. T.

The police service provided information in support of Standard Field Sobriety Testing (SFTS) as an accepted practice and met the standards and expectations of the police service.

The third officer stated he based his belief about the odour of marijuana on what the first officer related to him. This officer makes no mention of detecting the odour of marijuana on Mr. T's clothing, hair or breath during the course of his testing. The officer indicated he received related training several months earlier and had some expertise in SFTS techniques including the measure of Horizontal Gaze Nystagmus and recording of "clues" related to each test resulting in a pass/fail measurement. The third officer stated that yet another officer, a drug recognition expert, was not available to perform other tests that may have established an offence of impaired driving. Nevertheless, the officer stated Mr. T *"was focused and able to perform the tests."* When questioned about possible distractions to Mr. T by other officers' actions, the officer

stated, "*. . . . that came after when I was speaking to him and advised him he was impaired.*"

The second officer stated he was at the passenger side of the vehicle speaking to Mr. T's companion when Mr. T exited the vehicle for the purposes of sobriety testing. He indicated he did not discover the suspected drugs until the sobriety tests were complete, when the door was opened. This is contradicted by Mr. T's recollection he was distracted by this officer calling out and waving a baggie of suspect material in the midst of the testing process. If the officer's version is accepted, he stood by chatting with the passenger for the duration of the test, either through the window or the open car door, and he did not look inside to discover the suspected drugs until the moment physical tests were complete.

Despite the challenges presented by conducting tests in field conditions, when the purpose is to detect/measure subtle deviations from normal responses, an officer conducting such tests would need to be cognizant of the effect atmospheric conditions, light conditions and possible distractions. The officer would have to be observant that defects in eye movements or balance were not associated to wind-blow debris such as dust, or distractions by passing vehicles, flashing lights or, as in these circumstances, another officer in the immediate vicinity of the subject. Whether the officer was aware or not, there must have been some level of distraction caused to Mr. T by another officer's actions at the vehicle while Mr. T was being tested.

The PCC was of the opinion that the officer failed to recognize and consider the effect of such distractions to the test subject in coming to his expert opinion related to impairment.

According to the officers, the 24-hour suspension in these circumstances was issued entirely on the basis of the results of the SFTS and the seizure of the vehicle based entirely on the suspension. While the authority to seize the vehicle existed related to the window tinting pursuant to *The Traffic Safety Act*, the officers were clear this was not their rationale.

Correspondence provided by the police service opines that "*Case law states that fresh smell of marijuana smoke along with the driver's admission of smoking marijuana previously in the vehicle does give the officers grounds to search the vehicle without warrant. Once the trace amounts of marijuana were located in the vehicle, the officers had grounds to search the trunk without warrant.*" Without annotation, this is a sweeping interpretation of case law. There are a number of precedents that suggest the smell of burned marijuana alone does not establish grounds for arrest and subsequent search. The fact Mr. T acknowledged marijuana was smoked in the vehicle previously does little to establish marijuana was currently in the vehicle or justify a search.

In this case, there is question about how one of the officers came to find the trace amounts of marijuana in the vehicle. Searching beyond the vehicle passenger compartment, without a warrant in the absence of evidence of emergent circumstances, based on traces found in the passenger compartment is subject to interpretation.

Even if the PCC were to accept this interpretation, this was not the grounds articulated by the officer who seized the baggie of suspect material who stated, "*Well with the fresh marijuana, I believed at that point we could have had grounds to search the vehicle. I would have arrested him for possession of marijuana . . .*" The officer indicated he discovered suspected drugs after waiting for sobriety testing to be complete, when he had a view into a "cubbyhole" on the interior of the vehicle door once the passenger door was opened. It is suggested the vehicle door was opened innocently to facilitate communication, whereupon the suspect material came into plain view, followed by further search of the vehicle and the passenger. Given the officer's lack of recollection of how the passenger door came to be opened and his clear explanation he believed he had grounds to search the vehicle, on a balance of probabilities it appears he intended to search the vehicle and did just that. Suggestion the passenger voluntarily opened the door, exited the vehicle, there was consent, plain view or the search was incidental to arrest is disingenuous. Although he located a bottle of liquor in the trunk that may have constituted an offence, up to that moment there were no grounds to suspect an offence under *The Alcohol and Gaming Regulation Act* that would have provided the authority to expand the search to include the trunk. In the absence of rationale to support exigent circumstances that precluded the obtaining of a search warrant, and the absence of any information to bring into play other possible legal authorities to search the trunk, the PCC was of the opinion the warrantless search of the vehicle trunk was improper and the search of the vehicle was questionable to begin with based on the justification of the officer(s).

The one officer's seizure of suspected drugs then becomes another officer's grounds to arrest Mr. T. When Mr. T protested, a tussle followed because Mr. T became "lippy." The officer stated that in the absence of a more qualified officer, he recognized his testing did not meet the standards required for a criminal prosecution related to impairment, thus he did not arrest Mr. T until the moment the other officer waved the baggie of suspected drugs.

In the end it is this officer's remarks to Mr. T's companion that smacked of bad faith and reflected poorly on the police officers' actions. In his own words he advised the companion that "*Her boyfriend had been all sorts of stupid tonight and if he does this on a regular basis, it might be something that you need to consider in the future. I advised her of that because*

he had conducted himself poorly throughout the course of our interactions . . ." His providing "fatherly" advice was inappropriate, even if he considered himself qualified. The remarks were derogatory and demeaning and approached a breach of privacy in disclosure of investigational information. These went well beyond the nature and tenor of cautioning against the dangers of riding with an impaired driver, which incidentally was unlikely known to the passenger, based on the extensive tests required for the officer to detect the symptoms of impairment.

It was not the intention of the PCC to defend Mr. T's possible drug use or impairment while operating a motor vehicle. However, contrary to the officers' impressions he had "attitude" or was "lippy," he co-operated in the manners required of him and only became less co-operative as officers went further and further in their exercise of authority, which he challenged. Officers must investigate diligently, but at the same time recognize the limits of their authority and stop before taking actions that appear punitive, abusive or reflect the officers' frustration.

Under the provisions of section 35(2)(c) of *The Police Act, 1990*, the Chief of Police is responsible for discipline within the police service. The Act requires that the Chief of Police review the actions of the police officer(s) to determine if their conduct constitutes a violation of *The Municipal Police Discipline Regulations, 1991*. The Chief reviewed these circumstances and determined items seized were not documented in accordance with the standards expected of the police service and an officer had spoken to Mr. T in an unprofessional manner. The Chief determined that formal disciplinary action was not warranted.

Mr. G

Mr. G's complaint related to the actions of police officers who arrested his girlfriend's son (who for the purpose of this summary will be referenced as AAA). Mr. G alleged the officers abused their authority and assaulted AAA. His belief was based on information received from AAA in a phone call after he was arrested where AAA advised he was assaulted by the K9 officer(s). The investigation was conducted by a PCC investigator.

As Mr. G reported the matter on behalf of another and had no direct knowledge of the events, there were limitations on the information the PCC could disclose to him because of information privacy requirements related to AAA and confidentiality of certain police information or techniques.

AAA told Mr. G that he was at a friend's residence when he became aware that police officers were outside. Seeing no escape, he considered turning himself in, but decided to hide in the attic of the residence covered by insulation. He acknowledged hearing police searching the residence below for 20 to 30 minutes prior to them coming into the attic. AAA said that officers did not announce themselves or direct him to surrender. He asserts that he was calm and not resisting when an officer grabbed him, struck him twice and pulled him from his hiding place. AAA said the officers pushed his face in the insulation causing him to spit, inadvertently towards an officer's face. He was struck again when he spit in another officer's face. AAA said when officers attempted to put him through an access to the attic, his foot became caught. As a result he said the officers threw him head first through a larger access. Later he clarified this information to indicate he was caught by an officer below and there was a mattress on the floor.

AAA provided the name of an individual whom he believed witnessed the incident. Investigation did not identify this individual further and it is not established that anyone other than AAA and the police officers could have seen what happened in the attic. AAA told Mr. G that he sustained scrapes and bruises.

A police officer thoroughly documented and photographed a number of scrapes and scratches and made note of a small bump on AAA's head and swelling on one eyebrow. AAA was subsequently taken for medical examination. With AAA's consent, medical reports related to his injuries were reviewed. Various scrapes were reported to be cleaned and mention made of a police dog biting his arm on another occasion. AAA was reported to be less than co-operative, abusive and spitting, and was returned to the custody of police officers.

Police service reports and records were reviewed, as well notes and statements from the officers involved. Reports indicated AAA was mistakenly released from custody and was considered unlawfully at large. One or more warrants existed for his arrest. Police received information that AAA was at a residence and, with consent of an individual who identified himself as an occupant of the residence, initiated a search. Insulation was noted to be out of place in the attic. Officers stated verbal commands were made to surrender and to come out; however, there was no response. Officers entered the attic. The space was described as dark, dusty and hot. The roof was narrow and low, providing insufficient space or access for more than one officer side by side. There were areas where the ceiling for the room below was the only support underneath the insulation, and there was risk of falling through. Debris, including numerous used syringes, was present. AAA was located in a space partially covered by insulation. An officer stated that he directed AAA to come out of the hiding space and show his hands. There was no response. The officer stated that he could not see the individual's hands and was concerned that he could possess a weapon. When the officer took hold, the individual responded by throwing punches and kicking at the officer.

The officer acknowledged striking several blows to gain control; however, the individual continued to resist and spit at a second officer. That officer acknowledged striking at the individual to assist in subduing him; however, he was unable to do so due to the confined space. Officers stated the individual continued to struggle as he was put through an attic opening in a controlled manner and grabbed by another officer outside the attic space.

As it was an allegation of excessive use of force, section 47 of *The Police Act, 1990*, required the circumstances be reviewed by the Ministry of Justice, Public Prosecutions Division, to determine if the conduct of the police officer(s) constituted a criminal offence. Following their review, Public Prosecutions recommended there was no reliable basis for charges against any officer.

Under the provisions of section 35(2)(c) of *The Police Act, 1990*, the Chief of Police is responsible for discipline within the police service. The Act requires that the Chief of Police review the actions of the police officer(s) to determine if their conduct constitutes a violation of *The Municipal Police Discipline Regulations, 1991*. The Chief of Police reviewed these circumstances and recommended the conduct of the officers did not warrant disciplinary action.

The PCC was satisfied that officers were in lawful execution of duty in the effort to locate and arrest AAA. The courts are the appropriate authority to determine whether AAA was guilty of offences he was with charged and to consider issues his representatives may have raised related to the circumstances of his arrest.

The PCC takes complaints related to officers' use of force very seriously. Section 25(1) of the *Criminal Code* authorizes a police officer to use as much force as is necessary to accomplish her/his duty, provided that s/he acts on reasonable grounds. In these circumstances the version of events described by AAA conflicts with that of the police officers. It is apparent that AAA was intent not to be in custody. His statement police did not announce themselves and that he was thrown through the attic opening were misleading, and his description of his level of co-operation contradicted by several witnesses. On the whole, the police officers' description of AAA's level of resistance is more believable and thus the officers' use of force to take AAA into custody was necessary and reasonable.

The PCC concluded that improper action by the officers was not supported and therefore no reason to invoke discipline pursuant to *The Municipal Police Discipline Regulations, 1991*.

Mr. D

Mr. D's complaint related to the actions of police officers who arrested him and seized his motorized scooter. Mr. D alleged that he was unlawfully arrested, his motor scooter was improperly sold by police, and an officer displayed an unprofessional attitude.

Mr. D stated he had pushed his motor scooter to a restaurant to meet a potential buyer. Leaving the scooter unattended he subsequently found it was missing and called police to report it stolen. The officers who attended did not believe Mr. D and arrested and charged him for making a false report. Prior to the disposition of charges, the Crown Prosecutor's Office advised Mr. D the charges were to be withdrawn, which he believed suggested he was wrongfully arrested. Subsequently he learned that the seized motor scooter had been sold by the police without his knowledge. Mr. D stated when the police officers met with him to advise him of the foregoing, one appeared to be smirking.

Police service reports, records and the officers' notes and statements were reviewed. Officers responded to a complaint from a citizen about an abandoned motorized scooter. The machine was located partially on the sidewalk leaned against a post. There was significant damage to the rear of the scooter, the handlebars were fully locked to the left, and the keys were not present. The registration for the vehicle was expired. Officers formed the opinion that the scooter had been involved in a collision nearby and the driver had locked the steering and departed.

The same officers were then dispatched to Mr. D's call about his missing motor scooter. Officers reported that Mr. D was located seated in a licensed premise, still in contact with the police communications centre on his cell phone. The officers formed the opinion from his physical symptoms that Mr. D was intoxicated. He acknowledged to officers that he had consumed drinks there and at another location. Officers found him to be very nervous. Reports confirm Mr. D told officers he had pushed the motor scooter to the area to show it to a prospective buyer. Mr. D indicated he believed unknown persons had taken the scooter from the location where it was parked by carrying or placing it in a truck. Mr. D was in possession of the key for the scooter and told police this was the only known key. He also explained to officers the damage to the motor scooter had occurred previously and had been reported to Saskatchewan Government Insurance (SGI).

The officers noted that Mr. D's jacket and helmet had scrapes and marks consistent with colliding with the ground. Queries of SGI information confirmed a previous damage claim; however, the current damage appeared much in excess of the earlier $150 damage claim. Records further

indicated Mr. D was suspended from driving. The individual he identified as the potential buyer of the motor scooter was spoken to and denied knowledge or interest in such a transaction. It was also learned that witnesses believed Mr. D had recently driven the scooter in the area.

Officers stated that based on all of the information they believed Mr. D had been driving at the time of the collision and fabricated the report the scooter had been taken to avoid possible charges. Mr. D was arrested. He was not immediately released from custody due to his degree of intoxication; he was released when sober. Reports indicate the officers intended to check video surveillance records in the area and in the absence of such information it would be difficult to establish a driving offence.

Records indicate there was communication with the Crown Prosecutor's office to follow up on certain possible witness information. In the end, the prosecutor made the decision not to proceed with the charges.

Subsequently it was also determined the scooter had been sold through police auction without Mr. D being notified by registered mail as is required by the police service policy. Officers made contact to convey this information to Mr. D. The officers deny smirking or otherwise demonstrating improper conduct while speaking to him.

Under the provisions of section 35(2)(c) of *The Police Act, 1990*, the Chief of Police is responsible for discipline within the police service. The Act requires that the Chief of Police review the actions of the police officer(s) to determine if their conduct constitutes a violation of *The Municipal Police Discipline Regulations, 1991*. The Chief of the Police reviewed these circumstances and recommended the conduct of the investigating officers did not warrant disciplinary action. The Chief of Police advised Mr. D the scooter was sold without proper notification; however, this was due to an administrative error beyond the responsibility of the arresting officers. The police service initiated action to reach a financial settlement with Mr. D.

The PCC was satisfied Mr. D's concerns were thoroughly investigated and reviewed by the Chief of Police. Police officers are not required to invariably make the right decision on a judgement call, but the officers have to follow a proper process before arriving at the wrong one if the decision is to be accepted as a simple judgement error. In this case, officers made personal observations related to the location and state of the motor scooter and of Mr. D's location, state, behaviour and the fact he was in possession of the key for the scooter. Also, possible witnesses were spoken to and inquiries made about previous damage and Mr. D's driving status. Based on this knowledge and their experience, officers came to the reasonable belief that Mr. D had committed an offence and disbelieved he had pushed the scooter to the location where he reported it had been stolen. The reasonable and probable grounds required for a police officer to arrest and charge an individual are not the same as the standards for Crown Prosecutors' decisions to proceed with charges, in part because the evidence is more complete at the point of the prosecutor's review.

The PCC agreed with the Chief's finding that the officers' actions did not constitute misconduct. The PCC concurred with the recommendation of the Chief of Police that the sale of the motor scooter without due process was an administrative oversight rather than misconduct by an officer, in particular the officers who initially seized the vehicle. The PCC's mandate does not extend to financial claims; however, the PCC was satisfied that the Chief's initiative to come to a financial settlement with Mr. D was appropriate.

Although Mr. D may have perceived that an officer "smirked" at him, without additional support it was not established that an offensive facial expression occurred. The PCC concluded improper action by the officers was not supported and therefore no reason to invoke discipline pursuant to *The Municipal Police Discipline Regulations, 1991*.

Ms. C

Ms. C's complaint related to the actions of the police officers who arrested and detained her. She alleged officers used too much force during the arrest. Ms. C stated she became involved in a dispute with a man and woman that she knew while walking past their residence. This led to yelling and shouting and a physical confrontation where the male struck Ms. C. She indicated she was in the company of another woman and acknowledged that she had consumed alcohol. The investigation was conducted by a PCC investigator.

Ms. C indicated that when police officers arrived there were conflicting versions of what had occurred. The male was demanding police charge her with assault. She stated she became upset and "(was) going to go after him." She believed an officer struck her from behind with a club, after which two officers picked her up, slammed her to the ground, held her down and handcuffed her. Ms. C indicated she was moving around on the ground because she was in pain, although the officers may have thought she was attempting to get away. At some point an officer had a knee on her chest. She stated other officers arrived, lifted her up and carried her to the police car. She was handled roughly and her head struck the top of the car door, at which time she passed out from the pain.

Ms. C next recalled waking up in the police cells, felt dust in her mouth and her face was bruised and swollen. Her companion told her police officers were responsible for her injuries. When released from custody, she spoke to a police

supervisor who told her to have her injuries examined and return to provide a statement. Ms. C went to the hospital and was told she had a broken rib and bruises to her head and neck.

The woman who accompanied her at the time of her arrest confirmed her information about police officers using force to arrest her. Her friend did not see all of the events, as she too was arrested, and struggled with officers before being secured. She indicated Ms. C appeared to resist to some extent.

Photographs were taken by police and with her consent, medical records related to the injuries she reported were reviewed. The medical records and photographs were consistent with the injuries she described, although injury to her chest was reported to be bruising.

Police service records, including video recording from the detention unit, reports, notes and statements from officers were reviewed. Police officers were dispatched to a report that two females were trying to fight a male and that one of the females, dressed in green, had a knife.

The first officers to arrive found Ms. C and another female, who was dressed in green, in the front yard of the residence. They directed them to show their hands, and Ms. C complied. The officers reported that both appeared drunk and were uncooperative and belligerent. Officers took steps to secure and handcuff the female dressed in green first, due to the information related to the possible knife. Ms. C was directed to stay where she was. An officer attempted to handcuff her as she pulled away, yelling and moving in the direction of another female who came out of the residence. The officer stated that he administered an open-handed blow to the back of her head to distract her and took her to the ground with an arm control technique. Upon contact with the ground she rolled, kicked him in the chest, then rolled again and placed her hands underneath her body. The officers observed that she was of large stature and strong.

At that point, the officers had not yet located the reported knife and believed that it could be in Ms. C's possession. The second officer stated that he believed her kick struck the officer in the face and came to assist. The officers reported handcuffing Ms. C "with some difficulty." It was later stated that she was kneed in the body and three blows were struck to her face to gain her compliance in bringing her arms into view. After she was secured in the police car, one of the officers found a knife on the ground in the front yard near where Ms. C and the other female were arrested.

Officers stated she was transported to the police detention unit where she continued to be belligerent, aggressive and refused to answer questions. She attempted to turn while being searched by a matron; as a result an officer held her head and hair then raised her handcuffed arms behind her to control her. She kicked at the officer behind her and was then forced to the floor.

The video recording from the detention unit is consistent with the officers' recollection of events. An officer is seen to deliver a blow in the direction of the back of her head during the struggle to control her after she kicked the officer. It cannot be ascertained if or exactly where the blow may have made contact. The officer indicated that he had no recollection of delivering the blow.

The arresting officers did not initiate an administrative report related to their use of force and did not effectively communicate to their supervisor(s) all the details of the incident. This contributed to delays in the usual internal review mechanisms established in the police service policies and procedures related to officers' use of force. Policies and directives also stipulate that charges arising from an arrest and cell block incidents be reviewed by a supervisor to ensure the charge is warranted and correct to the circumstances. As these events transpired, the arresting officers did not take adequate action to ensure this took place.

Ms. C told the detention unit supervisor she believed officers used improper force. This supervisor observed her injuries and recognized they were of sufficient severity that she photographed them. The supervisor was aware she was involved in an altercation prior to her arrest; however, the supervisor did not make any enquiry about injuries that may have been caused by force used by police officers during the arrest. The supervisor was unfamiliar with her responsibilities related to receiving public complaints and did not report the incident to a shift supervisor in keeping with police service policy. At the time of Ms. C's release, another officer who became aware that she was involved in a struggle with arresting officers and observed bruises and swelling to her face arranged for her to speak to a senior officer when she indicated her desire to make a complaint against the arresting officers.

As Ms. C alleged excessive use of force, section 47 of *The Police Act, 1990*, requires the circumstances be reviewed by the Ministry of Justice, Public Prosecutions Division, to determine if the conduct of the police officer(s) constitutes a criminal offence. Following their review, Public Prosecutions recommended no charges against any officer.

Under the provisions of section 35(2)(c) of *The Police Act, 1990*, the Chief of Police is responsible for discipline within the police service. The Act requires that the Chief of Police review the actions of the police officer(s) to determine if their conduct constitutes a violation of *The Municipal Police Discipline Regulations, 1991*. The Chief of Police reviewed these circumstances and recommended that the conduct of

officers warranted disciplinary action. The arresting officers used unnecessary violence during the arrest and at the detention unit. Blows to Ms. C's face with closed fist, knee strikes to her body and lifting of her handcuffed arms high behind her back to gain her compliance at the detention unit are inconsistent with good police practices as set out in the police service *Administrative Manual and Procedure Manual*. The arresting officers also failed to make adequate notes, submit certain reports in a timely fashion and initiated certain charges without properly informing their supervisor. With the consent of the PCC, formal disciplinary action was initiated under *The Municipal Police Discipline Regulations, 1991*.

The Chief of Police also found the actions of the detention unit supervisor neglectful in respect to the failure to take appropriate action when Ms. C complained about the actions of the arresting officers. With the consent of the PCC, appropriate action was taken with respect to the officers' actions.

Ms. C was advised the PCC takes complaints related to police officers' use of violence very seriously. That being said, it is clear that the police officers were lawfully executing their duty when they arrested and detained her. Faced with the information that was reported related to a weapon and her behaviour, officers were justified in the decision to employ force to control her. Section 25(1) of the *Criminal Code* justifies a police officer and those aiding police in using as much force as is necessary to accomplish her/his duty, provided that s/he acts on reasonable grounds. It is regrettable that Ms. C may have been injured by the actions of the police officers; however, the mere fact she was injured does not in itself render the force improper. Although officers may have failed to include every detail in their initial reports, there is no evidence any officer attempted to hide or conceal their actions and all were honest and forthright when asked to account for their actions.

Ms. C alleged the officers used unnecessary violence during her arrest and detention. Public Prosecution reviewed the circumstances and determined the conduct of the officers did not meet the standard required by law for the officers to be charged criminally. The same circumstances were then reviewed by the PCC to ensure the officers' conduct followed proper training and adherence to police service policy. The standard applied by the PCC is based on a balance of probabilities rather than proof beyond a reasonable doubt, as required for a criminal conviction.

The PCC was satisfied that a degree of unnecessary violence had occurred during the arrest and detention of Ms. C. The PCC is satisfied that Ms. C's concerns were thoroughly and impartially investigated and reviewed and that appropriate action followed.

The PCC noted at the time of this incident that there were other incidents in Saskatchewan where police officers delivered blows to distract uncooperative individuals and to gain compliance in individuals asked to bring their arms/hands into the view during arrests. These matters resulted in a broad review which determined that officers generally had misconceptions about the use of blows to distract individuals and lacked familiarity with training and techniques to extract arms and hands held out of view by arrested subjects. In co-operation with the Chiefs of Police, the Saskatchewan Police College and other stake holders, policies have been reviewed and updated, and ongoing communication and training updates have been initiated with all police officers to improve their handling of such situations.

In conclusion, the PCC was satisfied Ms. C's complaint has been handled in a manner consistent with the public interest and that appropriate disciplinary action was initiated; however, the disciplinary action has yet to be completed.

Budget Allocation

The following figures show the approved budget for the 2012-13 fiscal year.

Approved Budget	$632,000
Actual Expenses	
Grant – FSIN, Special Investigations Unit	172,000
Salaries, Honorariums, Per Diems	371,000
Operating Expenses	80,000
	$623,000